

INTERNAL REVENUE SERVICE

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CC:ITA:B4

Attention: [REDACTED]

Dear [REDACTED]:

This letter is in response to your inquiry dated March 7, 2003, on behalf of your constituent, Mr. [REDACTED]. Mr. [REDACTED] asks that the Congress amend the "educator expense deduction" found in § 62(a)(2)(D) of the Internal Revenue Code to permit individuals who provide home schooling to deduct various educational expenses.

Mr. [REDACTED] cannot take the educator expense deduction for home schooling expenses under current law. The Congress would need to change current law to allow a deduction for such expenses.

Generally, for taxable years beginning in 2002 or 2003, an "eligible educator" may claim, as an adjustment to gross income, up to \$250 of otherwise deductible § 162 expenses paid for books, supplies, computer equipment and related software, other equipment, and supplementary materials used by the educator in the classroom. Section 62(a)(2)(D).

An eligible educator is a kindergarten through grade 12 teacher, instructor, counselor, or principal in a school for at least 900 hours during a school year. The term "school" means any school which provides elementary or secondary education, as determined under State law. Section 62(d)(1).

An individual who provides home schooling cannot claim the educator expense deduction, even if the expense is of the type listed in § 62(a)(2)(D), because the educator expense deduction is allowable only if he or she could otherwise deduct the expenses under § 162 as ordinary and necessary expenses paid or incurred in carrying on a trade or business.

To carry on a trade or business, a taxpayer must ordinarily sell, for profit, either goods or services, or both. For example, a teacher or instructor employed by either a public or private school who receives a salary would be considered to be in the trade or business

of being an educator. However, an individual who provides free services to others (including to family members) generally is not carrying on a trade or business. Accordingly, he or she could neither claim deductions under § 162, nor claim an educator expense deduction.

I hope this information is helpful. Please call [REDACTED]
[REDACTED] of my staff at [REDACTED], if you have any questions.

Sincerely,

Robert M. Brown
Acting Associate Chief Counsel
(Income Tax & Accounting)